

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON FISH, WILDLIFE AND PARKS**

**Call to Order:** By **CHAIRMAN DANIEL FUCHS**, on March 13, 2001 at 3 P.M., in Room 152 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Daniel Fuchs, Chairman (R)  
Rep. Joe Balyeat, Vice Chairman (R)  
Rep. George Golie, Vice Chairman (D)  
Rep. Keith Bales (R)  
Rep. Debby Barrett (R)  
Rep. Paul Clark (D)  
Rep. Ronald Devlin (R)  
Rep. Tom Facey (D)  
Rep. Nancy Fritz (D)  
Rep. Steven Gallus (D)  
Rep. Gail Gutsche (D)  
Rep. Larry Jent (D)  
Rep. Jeff Laszloffy (R)  
Rep. Diane Rice (R)  
Rep. Rick Ripley (R)  
Rep. Allen Rome (R)  
Rep. Jim Shockley (R)  
Rep. Donald Steinbeisser (R)  
Rep. Brett Tramelli (D)

**Members Excused:** Rep. Bill Thomas (R)

**Members Absent:** None.

**Staff Present:** Nina Roatch for Linda Keim, Committee Secretary  
Doug Sternberg, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB 286, 3/12/2001; SB 431,  
3/12/2001  
Executive Action: SB 262; SB 431; SB 285; SB 104

Called to order by **REPRESENTATIVE JEFF LASZLOFFY**.

**HEARING ON SB 286**

**Sponsor:** **SENATOR EMILY STONINGTON, SD 15, BOZEMAN**

**Proponents:** **Doug Monger, Fish, Wildlife and Parks Commission**  
**Clint Blackwood, Lewis & Clark Bicentennial Comm.**  
**Caroline Rogers, Bozeman, representing self**

**Opponents:** **None**

**Opening Statement by Sponsor:**

**SENATOR EMILY STONINGTON, SD 15, BOZEMAN** said the purpose of SB 286 is to allow certain limited modifications to Headwaters State Park, a primitive development park, for public education, safety, and convenience because of the anticipated influx of visitors. The intent is to try to meet both the need of keeping it within the primitive parks act, i.e., undeveloped; and having some development toward accommodating the anticipated visitors. Wants welcoming sign, map of the area, improved but not expanded parking, sanitary facilities, upgrade of existing signs with low profile interpretive signs; leaving the rest of the park as it is. Asks for removal of Section 1, Sub 5 which was amended in the Senate, because allowing interpretive and directional signs would take away from the primitive nature of the park.

**Proponents' Testimony:**

**Doug Monger, Fish, Wildlife and Parks** presented written testimony which he followed in his remarks to the committee,  
**EXHIBIT (fih57a01)**.

**Clint Blackwood, Lewis & Clark Bicentennial Commission** said he is in favor of the bill as it now reads. They want to encourage education and have historically accurate signs available to help interpret the history of this area. Bicentennial Commission has worked with agencies in the state to create a statewide interpretive sign strategy. Great thought has been given to how signing could be put together to be attractive, to fit the area, to be culturally inclusive, and historically accurate. FWP has put together an interpretive plan for the Headwaters, and they feel it should be put into place as much as possible.

**Caroline Rogers, Bozeman**, representing herself said she is a member of the Lewis & Clark Chapter and recently visited with a member of the National Lewis & Clark Board. This is not just Lewis & Clark, it is also the history of the Native American

culture. Would like flexibility in using low impact signs to tell the whole story. Involved in Gallatin Valley schools every year educating fourth graders about Lewis & Clark. The children visit the park and are given a hands on experience. Many of the children want to come back with their parents, and low impact signs would be nice then. They want more interpretation, and they support the bill as it has been amended.

**Opponents' Testimony:** None

**Informational Witnesses:** None

**Questions from Committee Members and Responses:**

**REP. GUTSCHE** asked for an explanation of why the words "at the entrance" were removed from the bill; it seems like this would expand what the bill might do. **SENATOR STONINGTON** said there was a question of whether the orientation area was right at the park entrance. However, the orientation area is 1/4 mile in, so the new orientation won't be right at the park entrance. **REP. GUTSCHE** asked about the last proponent who commented about Native American history and signage. Would you consider it a friendly amendment to add this language to the bill? **SENATOR STONINGTON** said sub 5 is the item of dispute. It would allow them to do anything they wanted to sign wise. They already have lean tos with sod roofs that house the interpretive signs for the trappers and the Native Americans. There also are quite a few signs already in the park. Those can be upgraded; the location cannot be changed, but they can modernize those signs. More of this kind of interpretation will be intrusive, rather than helpful.

**REP. GUTSCHE** refers to Page 2, sub 3, starting on line 13 which lists sanitation facilities and additional parking. Please tell us what already exists in the park? **Doug Monger, FWP** said the orientation area has a paved parking lot with room for six vehicles; no bus parking. Has small one way entrance in and out. The sanitation is a single hole vault toilet. Page 2, sub 4, starting on line 21 discusses the parking area at the confluence of the Madison and Jefferson Rivers. Currently there is an unimproved parking lot, no gravel, a few barriers just to keep people from driving out into the fields; no sanitary facilities, and three single post signs 1 ½ x 2 feet in size describing the confluence of the two rivers. **REP. GUTSCHE** refers to the first parking lot with the six spaces. How large do you want to make it, do you want room for buses too? **Doug Monger** said they do not have a plan for that area because it has always been restricted to a primitive park. They would like to accommodate a school bus or a motor home pulling a vehicle. Possibly 2-3 pull through slots, and go to 10 or 12 single vehicle slots. It currently

takes up less than ½ acre and they would enlarge it an acre in size. It is laid out poorly, so traffic doesn't circulate. **REP. GUTSCHE** asked if bus parking and space for motor homes is allowed in other primitive parks? **Doug Monger** said Headwaters State Park is one of the most developed state parks out of 41. It has flush toilets, and an interpretive area with more interpretation than most other parks, because it is of such historic and important educational nature. Headwaters has a 15-18 unit campground, campground hosts, and currently, an RV dump station. That is the highest level of development as at any of the primitive parks, or at any of their parks. As far as bus parking at the other primitive parks, most are gravel roads and you could pull a bus or motor home in. There are no restrictions on use of the area.

**REP. RICE** said the Fiscal Note indicates HB 5 will address the funding. Please describe HB 5? **SENATOR STONINGTON** said \$275,000 that was dedicated to preparing for the bicentennial was carried over from last session's HB 5.

**REP. BARRETT** said there have been people here from Bozeman, is there anyone here from Three Forks? **Doug Monger** said no. **REP. BARRETT** asked if they had any meetings with adjacent landowners, the cement factory, etc. as to what these improvements would do to the neighborhood? **Doug Monger** said they have had an extensive public involvement process through the newspaper and flyers, and have been working on an interpretive plan for the park. The cement plant was a part of those meetings and public announcements. Because the park is limited to its primitive status, FWP can't put up a storage shed to house its lawn mowers and weed eaters. The cement plant has offered a garage in Trident to use for storage and a small office. FWP is negotiating with the cement plant on their donation of Clark's Rock to the Headwaters. It was the main overlook of the Headwaters' area. **REP. BARRETT** asked if there had been any opposition? **Doug Monger** said no. They discussed an idea of relocating Highway 10 through the middle of the park, so the cement trucks wouldn't have to drive through the middle of the park to get to the plant. The proposal came from someone in the community, but was not well received, because it would have required an additional six mile drive to get from the highway to the cement plant.

**REP. CLARK** said the point of contention in the bill might be sub 5 on Page 2. What is the worst case scenario under that? **SENATOR STONINGTON** said the worst case scenario would be getting out of her car in the parking lot at the confluence and have an interpretive sign that tells who has been there; and then walk a little further and an interpretive sign would tell what might be seen in the water; then another 10 steps and another interpretive sign would tell what a confluence is. The beauty of this park is

that you don't see a lot of signs at the confluence. It is only by limiting the number of signs that we keep it in the natural state it is now in. Over-interpretation for the people from back East would take it away from being our park when the Lewis and Clark Bicentennial is gone. She said using the type of interpretive signs Clint Blackwood suggested would be perfect for the orientation area. Suggests making an orientation area that introduces you to the park, tells you where to go, gives you all the interpretation you need, then lets you explore.

**REP. CLARK** asked if FWP likes the bill? **Doug Monger** said no. They don't want to put hundreds of new signs in the park. They do want to strike a balance between what the primitive parks law says without this amendment, which is that they can only install minimal signing indicating that the park is a primitive park in which development has been limited, and encourage the public to help maintain the park's primitive character by packing out trash. They think there is a smaller step between what it was limited to today and a worst case scenario. **REP. CLARK** asked if FWP would build less or more if left to their own devices? **Doug Monger** said they would build less. Ulm Pishkin is a good example. They own 1200 acres, and the point of that park is to interpret a buffalo jump, prehistoric Native American lifestyle and history. FWP was given the opportunity to build a new visitor center. They were very careful to build it on the edge of the property, where it would not impede on the visitor's use of the park. They built a modest visitor's center, that is substantially smaller than what you see the federal agencies building at Giant Springs State Park, for example. It is a major interpretive effort to put out interpretation for that buffalo jump; they have a ½ mile trail from the visitor center to the base of the jump. They put up only three signs which are all lower than a desk, mounted on rock so they look like part of nature. That is enough to entice people and give information so they will want to take the ½ mile walk.

**REP. GUTSCHE** asked how far the town of Three Forks is from the park? **Doug Monger** answered three miles. **REP. GUTSCHE** asked if the department had considered having an interpretive center or a visitor center in the town of Three Forks, rather than doing this kind of improvement at the park? **Doug Monger** said yes, they did. Part of the interpretive planning process that went on with community members from Three Forks discussed the idea of a visitors center. There are no plans for a visitor's center at Headwaters State Park, under any circumstances. If there was a need for a visitor's center, the local community would be the logical place to put it, and FWP would support those efforts.

**REP. BARRETT** asked how many other state parks in Montana will be looking at this type of improvement with the Lewis and Clark

Bicentennial? **Doug Monger** said there are five state parks, and as of this morning six state parks, FWP just accepted a donation of Traveler's Rest over by Missoula, as another state park relating to Lewis and Clark. Of the 41 state parks, there are six relating to Lewis and Clark; about 75 fishing access sites. The premier site out of all the state of Montana properties is the Headwaters State Park. At Giant Springs, we already have the U.S. Forest Service Interpretive Center. Beaverhead Rock and Clark's Look Out down by Dillon has nothing planned, Pirogue Island near Miles City is a totally undeveloped island with no capability to provide for Lewis and Clark interpretation.

**Closing by Sponsor:**

You see the policy decision that you have before you pertaining to the extent of development of the park. At this point, it is your choice to concur with the Senate on the floor amendment, sub 5, or agree to restrict the amount of signage in the park. There is already a lot in the park that can be replaced with updated, upgraded, more interpretive, etc. What we are talking about is how much new signage, or new development do we want in that park. The orientation area, where you first drive into the park, is the perfect place to build an interpretive center with a possible unmanned kiosk. The number of signs, the increased parking, whatever sanitary facilities they want should be in that one location. Let's keep development out of the rest of the park, allow no additional signs, and only allow existing signs in the rest of the park to be replaced.

**HEARING ON SB 431**

**Sponsor:** SENATOR EMILY STONINGTON, SD 15, BOZEMAN

**Proponents:** Chris Smith, Fish, Wildlife and Parks Commission  
Janet Ellis, Montana Audubon  
Jeff Barber, Montana Wildlife Federation, Montana  
Chapter American Fisheries Society

**Opponents:** None

**Opening Statement by Sponsor:**

**SENATOR EMILY STONINGTON, SD 15, BOZEMAN** said SB 431 clarifies existing laws regarding the commercialization of nongame wildlife. To explain, she distributed a partial list of game and nongame animals, **EXHIBIT(fih57a02)**. Pikas, grasshopper mouse, red fox, snowshoe hares are nongame animals. Game animals, fur bearers, predators and endangered species are not covered in this bill. There are over 400 species of nongame animals in Montana.

This bill says nongame animals cannot be collected for the purpose of selling them. This comes out of a growing trend in the country of collecting cute little animals and selling them in the pet trade. One example is the growing market in Asia for Pikas. We have no control over people just going out, collecting and reselling them. All this says is that if there is a species that needs oversight because of the growing interest in them, anyone interested in collecting them for profit must get a permit.

**Proponents' Testimony:**

**Chris Smith, Fish, Wildlife and Parks** presented written testimony which he followed in his remarks to the committee, **EXHIBIT (fih57a03)**.

**Janet Ellis, Montana Audubon** said this is important clarification of our current law. Emphasizes it does not regulate just the taking of these animals, it is only when you put a price on them, and it is a commercial take that this addresses. This is an important tool for Montana to have, to make sure we don't lose any of our species.

**Jeff Barber, Montana Wildlife Federation and Montana Chapter of American Fisheries Society** said he had nothing else to add except they support the bill.

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**REP. BARRETT** said FWP doesn't have jurisdiction over all the animals that are not nongame; should there be a fiscal note of any kind if you are dealing with all of these too? **Chris Smith** said they do have responsibility for management of these species. Currently, they can't adopt rules to regulate commercial use. If they hear a species is being used commercially, they may initiate investigations, as they are charged to under state law, to examine that and see what is going on. If they determine that the use of that species poses a potential problem, they can designate that species as nongame species in need of management. Then they can adopt regulations. It puts FWP in a reactive fashion, rather than having a mechanism as this would provide, where somebody who wants to begin to exploit the species at least has to let FWP know, so FWP knows there is a potential problem that they should keep an eye on. Currently, they have to find out after the fact.

**REP. BALLYEAT** asked where mountain lions fit in on the list that was handed out? **Chris Smith** said mountain lions are a game animal; they are not on this list. **REP. BALLYEAT** said he recalls hearing about some outfitters who were offering hunts where you just go out and shoot gophers or prairie dogs. That would be considered a commercial use of that species. Would that be a violation of this law? **Chris Smith** said it would be a matter of interpretation whether the outfitter was harvesting them for sale. In this case, the outfitter was selling the opportunity or providing commercial services in relation to that opportunity. Not sure this would directly relate. But if it did, Section 2 of the statute reads that nongame wildlife cannot be taken for commercial purposes without prior authorization of the department subject to regulations adopted by the department.

**Closing by Sponsor:**

**SENATOR STONINGTON** said if you feel that this bill in any way impinges on gopher hunting, get another legal opinion on it. If someone wants to sponsor a day to go gopher hunting on a ranch, they should not have to get any kind of authorization from the department. Urges the committee to pass SB 431.

**CHAIRMAN DAN FUCHS** took over from **REP. LASZLOFFY**.

**EXECUTIVE ACTION ON SB 262**

**Motion:** **REP. LASZLOFFY** moved that **SB 262 BE CONCURRED IN**.

**Discussion:**

**REP. DEVLIN** said we passed a similar bill recently and asked how it works if two similar bills are passed? **Legislative Staffer Doug Sternberg** said when similar bills amending the same section of law are going through the process, the two bills are checked for conflicts in case both pass. Suggests some coordination language he drafted for this bill and HB 282, **EXHIBIT(fih57a04)**.

**REP. LASZLOFFY'S** bill, HB 282 takes out the words "social security number" on Page 1, line 16 and is effective upon passage and approval. It would, in effect, render SB 262 void because the offensive language in question would be gone. This coordination language would say that if both SB 262 and HB 282 are passed and approved, SB 262 would be void.

**Motion:** **REP. DEVLIN** moved that **AMENDMENT 01 TO SB 262 BE ADOPTED**.

**Discussion:**



**CHAIRMAN FUCHS** said he had talked to **SENATOR WELLS**, who was waiting to hear from the Governor's office as to whether they could just leave this in the file. Based on not hearing from **SENATOR WELLS**, we should pass this amendment, move this bill on to the Governor's desk and let her decide.

**Motion/Vote:** **REP. DEVLIN** moved that **AMENDMENT 01 TO SB 262 BE ADOPTED**. Motion carried 19-1 with Ripley voting no.

**Discussion:**

**REP. LASZLOFFY** said discussion is going on between **SENATOR WELLS** and the Montana Shooting Sports Association to work on some other coordinating language with HB 282. Would like to pass **SENATOR WELLS'** bill out of committee with those amendments on it, rather than trying to put those amendments on it on the floor. That is because this committee has already heard all the discussion on everything, and understands the two bills and how they work.

**Motion:** **REP. LASZLOFFY** moved that **SB 262 AS AMENDED BE POSTPONED UNTIL TUESDAY MARCH 20**.

**CHAIRMAN FUCHS** said without objection they would postpone executive action on SB 262 until next Tuesday. **REP. LASZLOFFY** said he would have the amendments coordinated with **SENATOR WELLS** and ready.

**EXECUTIVE ACTION ON SB 285**

**Motion:** **REP. CLARK** moved that **SB 285 BE CONCURRED IN**.

**Motion:** **REP. LASZLOFFY** moved that **AMENDMENT 01 TO SB 285 BE AMENDED**.

**Legislative Staffer Doug Sternberg** explained **REP. BALLYEAT'S** amendments, **EXHIBIT(fih57a05)**. They address the fee aspect of the bill, and would make it a voluntary hunting access enhancement permit of \$10 that applies to residents only.

**Discussion:**

**REP. LASZLOFFY** said he was not going to withdraw his motion, but he does not support the amendment.

**REP. GALLUS** said without objection he would like to hear the department's view on the amendment.

**REP. ROME** said that as a license dealer, one more tag is really a nuisance. This is not a very friendly amendment, and license dealers will harder to find.

**REP. CLARK** said this entire bill is a policy issue that we will make in this committee and hopefully on the house floor. The issue is one we deliberated over for many hours at Private Lands Public Wildlife (PLPW) Council Meetings. It is based on a very fine balance between the needs of landowners, sportsmen, and outfitters. We should not mess with the bill; we should bring it to the legislature. The legislature determines policies. The policy decision is, are we, with the best interests of sportsmen, landowners and outfitters in mind, going to forward hunting heritage and opportunity in the state of Montana and make sure it is available for the next generation. Wants to make sure that if there is any avenue possible to repair relationships between landowners and sportsmen and outfitters that we will move forward to do that. Landowners want sportsmen involved, but not on a piecemeal basis. Sportsmen want sportsmen involved, outfitters want sportsmen involved, and this amendment undermines this process. Recommend resisting this amendment.

**CHAIRMAN FUCHS** said he is opposed to the amendment as well. It might have worked if they had thought of this up front, and made it optional that if you really liked the program, you could put another \$10 in, etc. That would have been a way of measuring, other than having the people pay the \$2. We need to leave the bill as close to the form it is in as possible.

**Motion/Vote:** **REP. LASZLOFFY** moved that **AMENDMENT 01 TO SB 285 DO PASS. Motion failed 1-19 with Balyeat voting yes.**

**Motion:** **REP. GALLUS** moved that **SB 285 BE CONCURRED IN.**

**Discussion:**

**REP. FACEY** said he would support the bill. He doesn't do a lot of hunting, but he likes the fact that it takes folks away from the area he hunts and allows him a better hunting experience. He does benefit indirectly.

**REP. JENT** said he supports the bill because it requires resident sportsmen to ante up, whether they want to or not. It is very important that all resident sportsmen be in, then they have the option of whether to hunt or not hunt on block management.

**Motion/Vote:** **REP. GALLUS** moved that **SB 285 BE CONCURRED IN. Motion carried 18-2 with Balyeat and Golie voting no.**

**EXECUTIVE ACTION ON SB 104**

**Motion:** REP. SHOCKLEY moved that SB 104 BE CONCURRED IN.

**Discussion:**

REP. LASZLOFFY said he sensed during the hearing that there may be a move to table this bill. He said he really likes some parts of the bill, especially the trapping part, and would ask that a motion to table be deferred until later in the discussion.

**Motion:** REP. SHOCKLEY moved AMENDMENT 01 TO SB 104 BE ADOPTED.

**Discussion:**

REP. SHOCKLEY said currently if you have to shoot a cougar or something like that, you have to let the department know. Amendment 01, EXHIBIT(fih57a06) says you must surrender or arrange to surrender the wildlife to the department within 72 hours.

REP. CLARK asked what the intention of the amendment is? REP. SHOCKLEY said the statute simply requires that you notify the department when you shoot a game animal like a cougar or mountain lion, which is also a predator. It doesn't say specifically that the department gets to take the animal. They want to make it clear that if you have to shoot the mountain lion, you don't get to keep the mountain lion.

REP. CLARK said he is in support of the amendment.

REP. DEVLIN asked why you don't get to keep the mountain lion, since it molested your animals? Why is that important? REP. SHOCKLEY said for two reasons: you have a right to shoot the animal, but you don't want to encourage people to shoot mountain lions that don't need to be shot. This way it is clear that if you have to shoot a mountain lion, you aren't going to get any benefit from shooting it. That is reasonable.

**Motion/Vote:** REP. SHOCKLEY moved that AMENDMENT 01 TO SB 285 BE ADOPTED. Motion carried 15-5 with Bales, Devlin, Rice, Ripley, and Steinbeisser voting no.

**Motion:** REP. SHOCKLEY moved AMENDMENT 02 TO SB 285 BE ADOPTED.

**Discussion:**

**REP. SHOCKLEY** said Amendment 02, **EXHIBIT(fih57a07)**, states that the department can destroy a dog found to be chasing, stalking, pursuing, attacking or killing hooved game animals on public land or on private land at the request of the landowner. Page 3, line 9-10 strikes the word "guard", but the dogs that are allowed to protect your property can also protect your lawns and gardens.

**REP. BARRETT** asked what if your neighbor entices the deer? **REP. SHOCKLEY** said that would be unfortunate. He feels that he has a right to do whatever he wants with his dog on his property. If someone doesn't want his dog chasing the deer off their property, then he is obligated to keep track of his dog.

**REP. LASZLOFFY** said they use their dogs to keep deer out of their garden, and it was nice because they didn't have to put up electric fences. If they didn't have the dog running free on their property, they wouldn't have a garden.

**Motion/Vote:** **REP. SHOCKLEY** moved that **AMENDMENT 02 TO SB 104 BE ADOPTED**. Motion carried 16-4 with Barrett, Gallus, Gutsche, and Rice voting no.

**Motion/Vote:** **REP. SHOCKLEY** moved that **SB 104 BE CONCURRED IN AS AMENDED**. Motion carried 11-9 with Bales, Barrett, Gallus, Jent, Rice, Ripley, Rome, Steinbeisser, and Thomas voting no.

**CHAIRMAN FUCHS** said that **REP. SHOCKLEY** will carry the bill.

#### **EXECUTIVE ACTION ON SB 431**

**Motion:** **REP. FACEY** moved that **SB 431 BE CONCURRED IN**.

#### **Discussion:**

**REP. FACEY** said he, too, would like to make sure it is okay to shoot gophers. Do we need that as a conceptual amendment? **REP. GUTSCHE** said she did not think an amendment was needed. It is very clear on Page 1, lines 15-17. It says you have to barter, offer for sale, ship or transport them for sale; nobody is doing that with gophers or prairie dogs.

**REP. LASZLOFFY** reminded the committee that when **Chris Smith, FWP** was testifying, he used the term "exploiting the species". You may not be taking them home, but you are exploiting them for commercial gain, and somebody can construe that to mean commercial use.

**REP. GALLUS** said he is concerned because when he was little he used to get paid \$.50 a tail by the rancher. Would he still be able to do that? That was good money, and that is commercial use.

**REP. SHOCKLEY** said he would like to leave it like it is. He has a friend that comes out here to shoot gophers. Doesn't know if anybody pays ranchers to shoot them; but that is the next step.

**REP. RICE** said she would like to see the complete list of nongame animals, (see partial list in exhibit 2), before voting.

**REP. BARRETT** said would like to see the complete list also, because there is a lot of commercial use of rattlesnakes.

**CHAIRMAN FUCHS** said without objection they would ask **Chris Smith, FWP** for his opinion.

**REP. FACEY** asked the committee to look at Page 3, New Section 2 where it says nongame wildlife cannot be taken for commercial purposes without prior authorization, subject to regulations adopted by the department. Could they make a blanket resolution that shooting gophers is okay, the more the merrier? **Chris**

**Smith, FWP** answered that in looking specifically at the question **REP. GALLUS** raised, his interpretation is that the gophers

weren't being sold, he was being paid to shoot them. The way to prove they had been shot was to bring in the tails. That was just a way to tally them; you weren't selling the tails or the gophers, so they were not being harvested with the intent to barter, offer for sale, ship, transport or transport for eventual sale, or to sell the animal or any part of the animal. **REP.**

**FACEY** asked about the language that says "any part"? **Chris Smith** said that if the rancher bought the tails from you, if that is how the transaction was construed, you were selling him tails. Potentially you could stretch this. **Chris Smith** said that is not the way he reads it. The rancher was paying you to shoot gophers, and that would not be affected by this bill.

**REP. GALLUS** said he ties a lot of flies and he uses a lot of things; he has even been known to sell his flies. If he kills a squirrel and uses its tail and its fur, and then sells that fly to an angler or client, are we getting into trouble with little things like that? **Chris Smith** answered that probably would technically fall under the language of this bill where it says sell any animal or any part of any animal. If you were out shooting squirrels with the intent to use them to tie flies commercially, that would fall under this bill.

**REP. SHOCKLEY** said **Chris Smith** is reading this as a reasonable person would, however, sometimes wardens are less than reasonable

and county attorneys are off the chart. Would not want to leave the language this way. This does not clarify anything.

**REP. BALES** said nongame wildlife includes coyotes, etc.. Are fur bearers nongame wildlife? **Chris Smith** answered no.

**REP. JENT** said everything that is not a game animal, a fur bearer, or a predator, is defined in the statute. Endangered species are a special category designated by federal law, not state law. This does clarify the law. Look at Section 1, sub 2 on lines 15-17. The subject of this sentence is "commercial purposes". The object of this sentence is "animal or any part of animal". In the field of statutory interpretation, there is an entire series called "Sutherland on Statutory Interpretation". The way you read these is like you read the sentences you had in 5<sup>th</sup> grade English class. If you look at the noun and the object and what is in-between, what is important is the intent to barter, offer for sale, ship or transport for sale, or sell. The object of those words is animal, or any part of the animal. That is what a commercial purpose is, and that is what we are being asked to act on today. Not whether somebody gives someone a trespass fee to go gopher hunting. The object of the sentence is the animal, or the part of the animal. Doesn't see how any county attorney could charge some of the things we have come up with today. You have to assume that statutes are going to be given their ordinary meanings and that justices of the peace are going to do the right thing and look at ridiculous charges and dismiss them. That is what usually happens. Doesn't see the problem; this is well written and there is no reason to amend it.

**REP. SHOCKLEY** said **REP. JENT** has made his argument. If the purpose is to clarify this, it fails. Moves to table the bill.

**REP. BALYEAT** said he can see a lot of problems with this. He used to make jewelry and sell it at arts and crafts shows. People would make wall hangings out of rabbit fur; they made earrings out of feathers, etc. These were things they got out in the wild. Can see a lot of little things that will be violations of this law if we put it on the books. Would support tabling.

**REP. SHOCKLEY** said he withdraws his motion to table.

**REP. RIPLEY** said there are a lot of people in his area that buy rattlesnakes and make checkbooks, etc. out of them. Would move to table this bill.

**CHAIRMAN FUCHS** said there had been plenty of good discussion and they could vote it up or down on a roll call vote.

**Motion/Vote:** REP. RIPLEY moved that SB 431 BE TABLED. Motion carried 11-9 with Clark, Facey, Fritz, Fuchs, Gallus, Golie, Gutsche, Jent, and Tramelli voting no.

**ADJOURNMENT**

Adjournment: 4:47 P.M.

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REP. DANIEL FUCHS, Chairman

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LINDA KEIM, Secretary

DF/LK

**EXHIBIT** (fih57aad)